

CHAPTER 227

THE AUCTIONEERS ACT

[PRINCIPAL LEGISLATION]

ARRANGEMENT OF SECTIONS

Section

Title

PART I

PRELIMINARY PROVISIONS

1. Short title.
2. Interpretation.
3. Business of auctioneer.

PART II

LICENCES

4. Auctioneer to be licensed.
5. Kinds of licences and where general licences may be required.
6. Licensing Authority.
7. Power to refuse to issue a licence subject to appeal to the President.
8. Form of licences.
9. Expiration of licences.
10. Fees.

11. Register of persons licensed.

PART III

RESPECTING SALES

12. Auctioneers to accept the sale of all property offered by owners.
13. Auctioneer's licence not to authorise sale of intoxicating liquor or of anything for the sale of which a licence is required.
14. Information to be given to police officer upon request.
15. Auctioneer's name and address to be published at sale.
16. Licence to be produced on demand during the holding of an auction.
17. Sales in general and consequences of sale transactions.
18. Recovery of purchase money and payment by auctioneer.
19. Order of suspension or revocation of licence.
20. Auctioneer's licence not necessary for sale by auction in certain cases.
21. Power to make rules.

SCHEDULES

CHAPTER 227

THE AUCTIONEERS ACT

An Act relating to auctioneers.

[22nd June, 1928]

Ords. Nos.

20 of 1928

5 of 1930

Cap. 282

[R.L. Cap. 227]

Act No. 16 of 1994

PART I

PRELIMINARY PROVISIONS (ss 1-3)

[PCh227s1]1. Short title

This Act may be cited as the Auctioneers Act.

[PCh227s2]2. Interpretation Ord. No. 5 of 1930 s. 2

In this Act, unless the context otherwise requires—

"auctioneer" includes every person selling by auction;

"itinerant auctioneer" means a person who is without any fixed place of business and who satisfies the District Officer that he sells or offers for sale movable property of local manufacture or not exceeding one hundred shillings in value;

"owner" includes any person lawfully entitled to sell any property.

[PCh227s3]3. Business of auctioneer

Every person who sells or offers for sale any movable or immovable property or any interest therein at any sale where any person becomes or may become the purchaser of the same by competition and being the highest bidder, either by being the sole bidder, or

increasing upon the biddings made by others, or decreasing on sums named by the auctioneer or person acting as an auctioneer or other person at such sale, or by any other mode of sale by competition shall be deemed to carry on the business of an auctioneer.

PART II

LICENCES (ss 4-11)

[PCh227s4]4. Auctioneer to be licensed Ord. No. 5 of 1930 s. 3

(1) Except as hereinafter provided, no person other than an itinerant auctioneer shall carry on the business of an auctioneer without being licensed to do so under this Act and no person shall carry on any such business otherwise than in accordance with the terms and conditions of his licence.

(2) Any person who contravenes the provisions of this section shall be liable to a fine not exceeding fifteen hundred shillings.

[PCh227s5]5. Kinds of licences and where general licences may be required

(1) Licences shall be of two kinds, namely—

(a) a general licence which shall authorise the licensee to carry on the business of an auctioneer anywhere in Tanzania;

(b) a local licence which shall authorise the licensee to carry on the business of an auctioneer only within the district named in the licence.

(2) The President may order that in any specified district or part of a district no person shall carry on the business of an auctioneer unless he holds a general licence.

[PCh227s6]6. Licensing Authority Cap. 282 s. 7

The Permanent Secretary to the Treasury shall be the Licensing Authority for the issue of licences under this Act and all applications for licences shall be made to him through the District Officer of the district in which the applicant resides or has or intends to establish his principal place of business or by the revenue officer stationed in such district.

[PCh227s7]7. Power to refuse to issue a licence subject to appeal to the President

The Licensing Authority may refuse to issue any licence at his discretion and without assigning any reason, provided that any person to whom a licence has been refused may appeal to the President who may direct the Licensing Authority to issue a licence to such person.

[PCh227s8]8. Form of licences

Licences shall be in one of the forms in the First Schedule, or to the like effect, or in such other form as the President may by rule prescribe.

[PCh227s9]9. Expiration of licences

Unless previously revoked in accordance with the provisions of this Act, annual licences shall expire on the 31st day of December in each year and half-yearly licences shall expire on the 30th day of June or the 31st day of December next following the date of issue.

[PCh227s10]10. Fees

The fees specified in the Second Schedule shall be payable for licences under this Act, provided that the President may from time to time vary such fees in such manner as he may think fit.

[PCh227s11]11. Register of persons licensed

The Licensing Authority shall keep a register of all persons to whom licences are issued by him under this Act.

PART III

RESPECTING SALES (ss 12-21)

[PCh227s12]12. Auctioneers to accept the sale of all property offered by owners

(1) Every licensed auctioneer shall, on the requisition of the owner thereof, accept the sale of all property which he is not prohibited by law from selling, which may be offered to him for sale in the town or at the place where he carries on his ordinary business as an auctioneer, and shall sell the property within such time as the owner may require, or as soon thereafter as is possible, having regard to the sale of other property with which he has been entrusted, but he shall not be bound to sell any property sooner than seven days after he shall have accepted the sale thereof.

(2) No sale by auction of any land shall take place until after at least fourteen days public notice thereof has been given at the principal town of the district in which the land is situated and also at the place of the intended sale.

(3) The notice shall be given not only by printed or written document but also by such other method intelligible to uneducated persons as may be prescribed and it shall be expressed in Kiswahili as well as English and shall state the name and place of residence of the owner.

(4) Nothing herein shall be held to restrict any auctioneer from selling at the same sale the property of more than one owner, provided that the goods are lotted

consecutively and in such manner that no owner's goods may become mixed with the goods of any other owner.

[PCh227s13]13. Auctioneer's licence not to authorise sale of intoxicating liquor or of anything for the sale of which a licence is required

(1) No auctioneer's licence shall authorise any person to sell any intoxicating liquor in contravention of any law relating to the sale of such liquor.

(2) Except as may be otherwise provided liquor by law, no auctioneer's licence shall authorise any person to deal in or sell, either on account of or for the benefit, of himself or of any other person, anything, the dealing in, or sale of, which by persons other than those duly licensed, registered or otherwise authorised in that behalf is prohibited.

[PCh227s14]14. Information to be given to police officer upon request

(1) Every licensed auctioneer shall, where a police officer requests—

(a) permit that police officer to inspect any article entrusted to that licensed auctioneer; and

(b) give all information in his possession in regard to any article offered to him for sale he shall not have received; and

(c) disclose the name and address of the person from whom that licensed auctioneer received the article or by whom the article was offered to that licensed auctioneer.

(2) Any licensed auctioneer who—

(a) neglects or refuses to comply with any requirement by a police officer under this section;

(b) knowingly gives a false answer to any question lawfully put to him under this section;

(c) without the previous permission of a police officer—

(i) conceals or alters the appearance of any article with respect to which any request is made to that licensed auctioneer under this section; or

(ii) causes the article to be concealed or altered in appearance, commits an offence and is liable upon conviction to a fine not exceeding five hundred shillings, or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

[PCh227s15]15. Auctioneer's name and address to be published at sale

(1) Every licensed auctioneer, before beginning any auction, shall display and during the whole time of such auction keep displayed in some conspicuous part of the room or place where the auction is held, a ticket or board containing his true and full name and residence painted, printed or written in large letters, publicly visible and legible.

(2) If any auctioneer fails to comply with this section, commits an offence and is liable upon conviction for every such offence to a fine not exceeding one hundred and fifty shillings.

[PCh227s16]16. Licence to be produced on demand during the holding of an auction

(1) At any time during the holding of an auction the auctioneer shall, if so required by a police officer, or by a District Officer, or by any person authorised in writing by a District Officer, produce to such police officer, District Officer or person authorised as

aforesaid, the licence granted to such auctioneer under this Act and authorising him to conduct such auction.

(2) If any person holding an auction fails to produce his licence when so required as aforesaid, commits an offence and is liable upon conviction to a fine not exceeding one hundred shillings, without prejudice to the recovery or imposition of any penalty to which he may otherwise be liable for acting as an auctioneer without a licence or contrary to the terms of his licence.

[PCh227s17]17. Sales in general and consequences of sale transactions

(1) It shall be stated in the particulars or conditions of sale by auction of any movable or immovable property whether such sale be without reserve or subject to a reserve price, or whether a right to bid is reserved.

(2) If it is stated that the sale be without reserve or to that effect, it shall not be lawful for the owner or any person on his behalf or employed by him to bid at such sale, or for the auctioneer to take knowingly any such bidding.

(3) If it is stated that the sale will be subject to a reserve price as regards any one or more lots, it shall be lawful for the owner or any person employed by him to give one bid for each such lot and no more.

(4) If it is stated that the sale will be subject to a right for the owner to bid, it shall be lawful for the owner, or for any one person on his behalf, but not more than one, to bid at such auction in such manner as he shall think proper.

(5) If the owner or any person employed by him or on his behalf bids at any sale contrary to any of the preceding provisions of this section, any purchaser may refuse to

fulfil his purchase, but the highest bona fide bidder shall be entitled, if he so elects to have the immovable or movable property at the price offered by that highest bona fide bidder.

(6) No auctioneer shall make a bid either on behalf of himself or as agent for any other person unless on making such bid he announces that it is his bid.

(7) Any auctioneer who knowingly receives or makes any bid contrary to any of the provisions of this section commits an offence, and is liable upon conviction to a fine not exceeding one thousand five hundred shillings.

[PCh227s18]18. Recovery of purchase money and payment by auctioneer

(1) The auctioneer making any sale by auction shall, unless it be agreed otherwise between him and the seller, be entitled to sue for, recover, and discharge all sums due in respect of such sale.

(2) The auctioneer shall, unless it be agreed otherwise between him and the seller, be liable for the due payment to the seller of the net proceeds of all sales of property within ten days from the time of sale of such property.

[PCh227s19]19. Order of suspension or revocation of licence

(1) The court imposing any fine under this Act upon any auctioneer or convicting any auctioneer of any offence in relation to any property entrusted to him for sale or in relation to the proceeds of the sale of such property may, if it appears that the offence is of such nature as to require the licence of such auctioneer to be suspended or revoked, make an order to that effect, and the licence shall be suspended or revoked accordingly.

(2) The court making any order of suspension or revocation of a licence shall forthwith intimate the fact to the licensing authority who shall have issued such licence.

[PCh227s20]20. Auctioneer's licence not necessary for sale by auction in certain cases

It shall not be necessary for any person selling any movable or immovable property by auction to take out a licence as required by this Act in the following cases—

(a) any officer of a court selling any property under an order or process of court;

(b) any pound-master or pound-keeper selling any animal which has been impounded;

(c) any officer in the service of the Government selling any property in accordance with any law or selling unclaimed property in the custody of any department of the Government;

(d) any person selling any article in any market established under any law in force and relating to markets when required so to do by any such law or by rules made under any such law or when authorised by any authority acting under any such law; or

(e) any person selling his own property or any officer of the Government selling the property of the Government.

[PCh227s21]21. Power to make rules

(1) The President may make rules for any of the following purposes—

(a) requiring that an applicant for a licence under this Act shall give security for the faithful discharge of his duties, and prescribing the amount of the security to be required and the form in which security may be accepted;

(b) prescribing the maximum rate of commission which an auctioneer shall be entitled to demand, recover, or retain as remuneration for his services and providing that any agreement to pay or allow any higher rate than is prescribed shall not be binding;

(c) requiring records to be kept by auctioneers relating to property entrusted or offered to them for sale, prescribing the form of such records and the particulars therein and the terms and conditions on which they shall be open to inspection by persons authorised by such rules;

(d) varying the forms of licences specified in the First Schedule;

(e) varying the fees for licences specified in the Second Schedule;

(f) prescribing the particulars to be entered in the registers of licences issued under this Act and requiring the publication of particulars;

(g) prescribing anything which this Act requires or enables to be prescribed;

(h) generally for the better carrying into effect the purposes of this Act.

(2) Rules made under this section may prescribe a penalty for the breach thereof which may extend to seven hundred and fifty shillings in respect of the breach of any rule, and may provide that in the case of a breach of any rule by a person licensed under this Act, his licence may be suspended or revoked.

(3) Rules made under this section shall come into operation upon the publication in the Gazette, or at such time thereafter as the rules shall declare.

(4) No rule made for any of the purposes set forth in paragraphs (a) or (b) of subsection (1) of this section shall come into operation until the rule has been published and has been submitted to the National Assembly and approved by the majority of the members present.

(5) A recital in any such rule that, that rule has been published, submitted and approved in accordance with paragraph (a) of this subsection shall be sufficient that the requirements of this subsection have been complied with, unless the contrary is proved.

FIRST SCHEDULE

(Section 8)

FORMS OF LICENCES

FORM A

AUCTIONEER'S GENERAL LICENCE

THE AUCTIONEERS ACT (CAP. 227)

Licence is hereby granted to of to carry on the business of an auctioneer in Tanzania until the day of 20....., subject to the provisions of the Auctioneers Act.

Dated at this day of 20.....

Fee paid shillings.

.....

Signature of Licensing Authority

Note: This licence expires on the day of 20.....

FORM B

AUCTIONEER'S LOCAL LICENCE

THE AUCTIONEERS ACT (CAP. 227)

Licence is hereby granted to of to carry on the business of
an auctioneer in the District of until the day of 20.....,
subject to the provisions of the Auctioneers Act.

Dated at this day of 20.....

Fee paid shillings.

.....

Signature of Licensing Authority

Note: This licence expires on the day of 20.....

SECOND SCHEDULE

FEES PAYABLE FOR LICENCES Acts Nos. 12 of 1972 Sch.; 16 of 1994 s. 13

(Section 10)

[Omitted: Subject to variation.]